

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

BRIAN EUGENE MESERVE,

Petitioner,

v.

STATE OF OHIO COURT OF COMMON
BELMONT COUNTY,
Respondent.

Case No. 2:04-cv-1132
JUDGE MARBLEY

Magistrate Judge KEMP

OPINION AND ORDER

On April 5, 2005, the Magistrate Judge issued a *Report and Recommendation* pursuant to Rule 4 of the Rules Governing Section 2254 Cases recommending that the petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed as barred by the one year statute of limitations under 28 U.S.C. §2254. On April 18, 2005, petitioner filed objections to the *Report and Recommendation*. Petitioner objects to all of the conclusions of the Magistrate Judge, and again argues that equitable tolling is appropriate in this case. For the reasons discussed at length in the *Report and Recommendation*, the Court is not persuaded by petitioner's argument.

Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a *de novo* review of those portions of the *Report and Recommendation* that are objected to. For the reasons discussed in the *Report and Recommendation*, petitioner's objections are **OVERRULED**.

The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This case is hereby **DISMISSED**.

IT IS SO ORDERED.

s/Algenon L. Marbley

ALGENON L. MARBLEY
United States District Judge